

Agency compliance with rule proposal notice requirements

SB 1296 by Cain (Uher)

DIGEST:	SB 1296 would have amended the Texas Administrative Procedure Act to require that a rule proposed by an agency could become effective only if each item defined in Government Code sec. 2001.024, which describes eight components that must be included in the notice of a proposed rule, were published in the <i>Texas Register</i> .
GOVERNOR'S REASON FOR VETO:	"Senate Bill 1296 would replace the substantial compliance rule with a rule of strict compliance regarding each and every technical aspect of an agency's rule-making process under the Texas Administrative Procedure Act. This would result in increased litigation attacking state regulations on the basis of hyper-technical defects that may have no substantive effect or impact on the public."
RESPONSE:	Sen. David Cain, the author of SB 1296, had no comment. Rep. D.R. (Tom) Uher, the House sponsor, said: "The governor's staff is overworked, did not understand how the substantial compliance rule is currently implemented and did not avail themselves of the opportunity to speak with me. Current practice often results in the general public not being advised of the impact of proposed rules. Too many agencies rely on the substantial compliance rule rather than advising the public on what their intentions are."
NOTES:	SB 1296 passed the House on the Local and Consent Calendar and was not analyzed in a <i>Daily Floor Report</i> .